

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

NO. 4:09-CR-21-FL-2

UNITED STATES OF AMERICA,     )  
  )  
          v.                            )  
  )  
TONY JAMES ROUSE,                )  
  )  
                  Defendant.        )

ORDER

This matter comes before the court on the memorandum and recommendation (“M&R”) filed by the United States Magistrate Judge (DE # 48) and defendant’s motion to suppress statements (DE # 37). After hearing held on June 10, 2009, the magistrate judge filed the M&R on July 21, 2009, recommending this court grant defendant’s motion to suppress defendant’s statements (DE # 37). The time for objections to the M&R has now passed with no objections filed by either party. In this posture, the issues raised in the M&R and defendant’s motion to suppress are ripe for ruling.

The magistrate judge found that, considering the totality of the circumstances in this case, the government failed to satisfy its burden of showing that defendant knowingly and intelligently waived his right to counsel prior to being interviewed by the police on September 23, 2008, and making the statements contested by the instant motion. As such, the magistrate judge found that the statements were obtained in violation of defendant’s Fifth Amendment rights. Further, the magistrate judge found that defendant did not make a knowing and intelligent waiver of his Sixth Amendment right to counsel when the police interrogated him on September 23, 2008, and elicited the statements at issue.

The court has thoroughly reviewed the well-considered M&R, the facts of the case and the

relevant case law and agrees with the magistrate judge. Accordingly, the court ADOPTS the findings in the M&R as its own. For the reasons set forth in the M&R, defendant's motion to suppress (DE # 37) is GRANTED.

SO ORDERED, this the 20<sup>th</sup> day of August, 2009.



LOUISE W. FLANAGAN  
Chief United States District Judge